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**BEFORE THE FEDERAL ELECTION COMMISSION**

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In the Matter of )  
)  
MUR 6536 )  
Gonzalez for Congress Committee and )  
Lisa P. Gonzalez, as treasurer )  
DISMISSAL AND  
CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

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COMMISSION

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and developments of the law. It is the Commission's policy that dismissal of relatively low-rated matters on the Enforcement docket is warranted through the exercise of its prosecutorial discretion under certain circumstances.

The Office of General Counsel has determined that MUR 6536 should not be referred to the Alternative Dispute Resolution Office. Also, for the reasons set forth below, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6536.<sup>1</sup>

<sup>1</sup> The EPS rating information is as follows:  
Response Filed: March 12, 2012.

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1           On February 27, 2012, Sylvia N. Murphy filed a complaint alleging that Gonzalez for  
2 Congress and Lisa P. Gonzalez in her official capacity as treasurer (the "Committee")<sup>2</sup> had  
3 offices in three different locations but had failed to disclose "disbursements paying fair  
4 market value [or] in-kind contributions" for the space. Compl. at 1. According to Murphy,  
5 the Committee's office locations were: (1) Clear Lake Tea Party ("CLTP") headquarters,  
6 2045 Space Park Drive, Suite 280, Nassau Bay, TX 77058; (2) Sunbelt Securities, 1025 I-10  
7 North, Beaumont, TX 77706; and (3) Better Living Medical, 1039 N. Twin City Highway,  
8 Nederland, TX 77627. *Id.*

9           In response, Committee treasurer Gonzalez asserted that the Commission should not  
10 take action against the Committee because "the office space listed on the enclosed letter was  
11 not utilized by Gonzalez for Congress Committee until February 1, 2012," which fell during  
12 the first quarter reporting period of January 1, 2012 through March 31, 2012. The  
13 Committee's April Quarterly Report was not due to be filed until April 15, 2012. Resp. at 1.  
14 For that reason, according to Gonzalez, the Committee's disbursements for the CLTP office  
15 space and its reporting of the other two offices, which she described as "an in-kind  
16 contribution by two separate individuals," were not disclosed at the time that the Complaint  
17 was filed, on February 27, 2012. *Id.*

18           Along with her Response, Gonzalez submitted documentation relating to the three  
19 office spaces at issue. As to the first office location in Nassau Bay, Texas, Respondent  
20 enclosed a lease agreement dated February 1, 2012, between the Committee and CLTP.  
21 Resp., Attach. 1. According to the lease, the Committee agreed to pay CLTP \$100 per month

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<sup>2</sup> On May 29, 2012, Roberto F. Gonzalez was defeated for the Republican nomination for Congress from Texas's 14<sup>th</sup> Congressional District.

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1 to rent a 10' by 10' office, starting on February 1, 2012. The lease also provided that the rent  
2 would be due on the last day of each month, beginning on February 29, 2012, and further  
3 specified that either party could cancel the lease at any time. *Id.*

4 As to the latter two office locations, Gonzalez included contribution forms for in-kind  
5 donations of office space from two individuals – Kenneth Barry and Randy Robin –  
6 beginning in February 2012. Resp., Attachs. 2, 3. Barry's form, which listed him as the  
7 managing director of Sunbelt Securities, described his donation of office space in Beaumont,  
8 Texas, to the Committee as an in-kind contribution of \$50 per month, beginning on February  
9 3, 2012. Resp., Attach. 2. Similarly, Robin's contribution form, which described him as  
10 employed by Better Living Medical, listed his contribution as an in-kind contribution of  
11 office space in Nederland, Texas, valued at \$50 per month, also as of February 3, 2012.  
12 Resp., Attach. 3.

13 After filing its Response, the Committee filed its 2012 April Quarterly Report, its  
14 Pre-Primary Report, and its Termination Report, which together cover the time period from  
15 January 1, 2012, through June 30, 2012. The Office of General Counsel has also reviewed  
16 these Reports, including amendments, in an attempt to determine whether the Committee  
17 properly reported the rent associated with its offices.

18 Authorized political committees are required to report receipts and disbursements, *see*  
19 2 U.S.C. § 434(b)(2), (4) and 11 C.F.R. § 104.3(a)-(b), and may be further required to  
20 itemize receipts and disbursements by source, to the extent that they aggregate in excess of  
21 \$200 per election cycle, *see* 2 U.S.C. § 434(b)(3), (5) and 11 C.F.R. § 104.3(a)(4)(i),  
22 (b)(4)(i). As for the CLTP office space, an itemized disbursement of \$100 to CLTP for rent  
23 disbursed on April 30, 2012 is disclosed on Schedule B of the Committee's Amended

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1 Pre-Primary Report filed on July 17, 2012.<sup>3</sup> Since the Committee agreed to rent office space  
2 from CLTP for \$100 per month starting in February 2012, *see* Resp., Attach. 1, it is possible  
3 that the Committee paid CLTP \$100 in rent in February and March, and itemized only the  
4 subsequent April rent payment, because it was at that point that the Committee's  
5 disbursements to CLTP exceeded \$200 and were required to be itemized, pursuant to  
6 11 C.F.R. § 104.3(b)(4)(i). On other hand, the Committee filed the Amended Pre-Primary  
7 Report several months after the Report was due, and after the May 29, 2012 primary election  
8 was over.

9 Similarly, Commission regulations require that contributions, including in-kind  
10 contributions, *see* 11 C.F.R. § 100.52(a), (d)(1), be itemized to the extent that they exceed  
11 \$200 per contributor per election cycle. The Committee's April Quarterly Report, Schedule  
12 A, discloses that Barry had already made contributions totaling \$200 prior to the reporting  
13 period. The Committee's April Quarterly Report also itemizes two additional contributions,  
14 in-kind contributions of office space from Barry, valued at \$50 each, on February 29, 2012,  
15 and March 31, 2012. Subsequently, the Committee's Amended Pre-Primary Report and the  
16 Amended Termination Report, both of which were filed on July 17, 2012, disclose that Barry  
17 made further in-kind contributions of office space on April 30, 2012 and May 29, 2012, both  
18 of which were valued at \$50, for a total of \$400 in contributions, at least \$200 of  
19 which were in-kind contributions of office space. However, as noted above,  
20 the Committee filed its Amended Pre-Primary Report, which disclosed one of the

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<sup>3</sup> The original Pre-Primary Report did not contain any such disbursement to CLTP, nor did the April Quarterly Report. The Committee filed a Termination Report, which discloses that it paid CLTP \$311.76 on May 12, 2012. That payment, however, is described as being for "advertising," not "rent." The Amended Termination Report, filed on July 17, 2012, contains the same disclosure.

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Barry in-kind contributions, several months late. Robin's contributions were not itemized on Schedule A of the Committee's Reports.<sup>4</sup>

Based on the available information, it is not clear whether the Committee properly reported all financial information pertaining to the three offices at issue. Nonetheless, the amount potentially at issue is not significant, and the Committee appears to be inactive and has requested permission to terminate. Therefore, the Office of General Counsel does not believe that further enforcement action would be a prudent use of Commission resources and recommends that the Commission dismiss this matter, approve the attached Factual & Legal Analysis and the appropriate letters, and close the file.

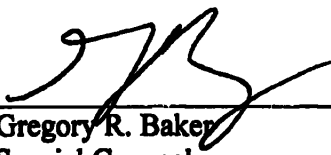
#### RECOMMENDATIONS

Accordingly, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion and dismiss this matter, approve the attached Factual & Legal Analysis, close the file, and send the appropriate letters. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

Anthony Herman  
General Counsel

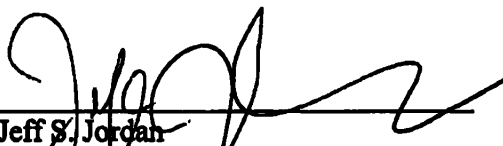
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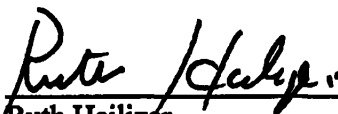
BY:

  
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Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

<sup>4</sup> It is possible that the in-kind contributions of office space attributed to Barry and Robin may actually have derived from the companies at which they worked, Sunbelt Securities and Better Living Medical, respectively. According to the public record, at least one of the companies, Sunbelt Securities, is a corporation and, as such, any contributions from that entity would be prohibited, pursuant to 2 U.S.C. § 441b(a). Given the low dollar amount potentially at issue and the recommendation to dismiss this matter, *infra*, the Office of General Counsel does not recommend that the Commission pursue the issue further.

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